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684 of their ears where the earrings were commonly worn were cut off; for the second offense the whole ear was cut off; and for the third offense they cut off the nose, saying to the culprit "You have not sense enough to smell anything." He added that if a man had a wife and children and some other woman began running about with him, the women inflicted the punishment. They would rush upon their victim, foaming at the mouth like mad tigers, tear off her clothing and leave her all covered with blood. Meantime the men related to the woman's husband would gather round and, if they saw matters were likely to be carried to extremes, pull the woman away.

As the evidence of a single person was admitted, frequently a very young one at that, the innocent sometimes suffered, and the attentions of the Indians were often extended to white traders among them, in many cases no doubt on the most ample grounds.

836 If we were to accept Swan's testimony we should have to suppose that sexual looseness before marriage was not punished nor indeed curtailed in the smallest degree. He says:

"Simple fornication is no crime or reproach among the Creeks; the sexes indulge their propensities with each other promiscuously, unrestrained by law or custom, and without secrecy or shame. If a young woman becomes pregnant before she is married, which most of them do, the child is maintained in her clan without the least murmuring." [83]

Hodgson also declares that "female licentiousness before marriage is not attended with loss of character," [84] and Romans that "they will never scruple to sell the use of their bodies when they can do it in private" and "the savages think a young woman nothing the worse for making use of her body, as they term it." [85]

Bossu and Hitchcock testify to the same effect,[86] the latter attributing the abuse to the influence of polygamy.[87]

Nevertheless, from what may be gathered from other sources, it is evident that there were limits beyond which a young person could not go without being made to suffer in consequence.

At the meetings of the clan to which the offender belonged he (or she) would probably be reprimanded by the oldest clan uncle and perhaps "dry scratched" or whipped. The former punishment was inflicted by means of an implement made of gar teeth, or in later times needles. One person grasped the arms of the victim and held them about the ball-post while the scratching was done, and the latter usually bore it in stoical silence for fear of the ridicule of his companions. Another punishment was sarcasm, in which the Indians are

[83] Swan in Schoolcraft, Ind. Tribes, vol. v, p. 273.
[84] Hodgson, Journey through N. Am., pp. 207-208.
[85] Romans, Nat. Hist. of E. and W. Fla., p. 67
[86] See p. 370.
[87] Hitchcock, Ms. notes.

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adepts. They would praise the culprit in the highest manner, reviewing with the most circumstantial details his assumed virtuous actions, the exact opposite, of course, of the things he had really done, until he was only too glad to flee from the general ridicule.

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The punishment usually meted out to those members of different but linked clans who had carnal intercourse with each other was "the long scratch" (sápka tcápko), performed by inserting a gar tooth or needle in the skin at the back of the neck and making a shallow cut along the spine and then on down to the heel. The pain was, of course, intense, but the public shame attending the performance, which took place in the presence of all of the people, was very much worse. As one man put it, it was to show that the offenders were no better than brutes and placed a stigma for life upon the parties undergoing it. According to another informant, instead of being dry scratched, the culprits were flogged very severely. At Chiaha the scratching took place at the northeast corner of the square ground. Mr. William McCombs, of this town, remembered that during the Civil War a Potato man and a Raccoon woman were in danger of a thrashing for having consorted together.

If the offenders belonged to the same clan the punishment was worse—often death. An Abihka Indian told me that he remembered a case in which a woman of the Wind clan was beaten to death for an offense of the kind. Another informant stated that for the first offense in such cases the long scratch was the sole punishment, but flogging for the second. Still another claimed that flogging was the penalty for the first offense, the nose and ears also being cut off. In later times they omitted cutting off the nose. Flogging was also the punishment among the Texas Alabama, but in more ancient times it is though that the penalty was more severe. At any rate, this crime was considered so dreadful by the Alabama that it was believed "the earth might burn up" in consequence of it, and the sentiment is so strong down to the present day that there are only three instances of endogamous marriages, while far more marriages take place outside of linked clans among all the people of the Creek confederacy. For instance, one of my interpreters belonged to the Panther clan, his father was an Alligator, and his wife a Bear. Another belonged to the Aktayatci, his father was a Bear, and his father's father a Panther. Still another belonged to the Deer, his father to the Raccoon, and his father's father to the Potato. The last lived at Tukabahchee where marriage between the Potato and Raccoon was allowed.

Related to these crimes was one mentioned by Adair when he says that the Muskogee came near putting some white traders to death because, when "in their cups," they forcibly viewed the nakedness of a woman who was reputed to be a hermaphrodite, and he states

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585 singing the Epithalamium, they depart with friendly glad hearts, from the house of praise." [1]

Bossu's description of Alabama marriage customs is short.

"The savages are ordinarily satisfied with one wife, of whom they are excessively jealous. When a savage passes through a village and
[582] has no wife, he hires a girl for a night or two, according to his fancy, and the parents find in that nothing to blame;[2] they disturb themselves very little about their girl, giving as a reason that she has the right to her own body; the daughters of the savages do not abuse this liberty at all; they find it for their interest to appear modest in order to be sought in marriage; but with regard to the married women they
[581] say that by marriage they have sold their liberty, and therefore they ought not to have any other men besides their husband. On their side [the men] reserve the right to have many wives. . . .

"Marriage . . . is of a simple nature, and of no other form than mutual consent of the parties. The future husband makes presents of skins and provisions at the cabin of the father of his intended; after the meal there is a dance, they sing of the war exploits of the ancestors of the husband. Next day the oldest man presents the wife to the parents of her husband. That is the entire marriage ceremony. . . . Those who are good warriors and good hunters choose the prettiest girls; the others have only the rejected and the ugly." [3]

From Romans:

[595] "Polygamy is here allowed, though not generally made use of; they marry without much ceremony, seldom any more than to make some presents to the parents, and to have a feast or hearty regale at the hut of the wife's father; when once married the women are bound to the strictest observation of obedience and conjugal fidelity, [the Indians] saying that she that has once sold herself, can not any more dispose of any thing whatever; and of their wives they are the most unreasonably jealous of any nation under the sun." [4]

Says Bartram:

"Amongst some of the bands in the Muscogulge confederacy, I was informed the mystery is performed after the following manner. When a young man has fixed his affections, and is determined to marry, he takes a Cane or Reed, such as they stick down at the hills of their Bean vines for their support: with this (after having obtained her parents' or nearest relations' consent) he repairs to the habitation of his beloved, attended by his friends and associates, and in the presence of the wedding guests, he sticks his Reed down, upright in the ground; when soon after his sweet-heart comes forth with another

[1] Adair, Hist. Am. Inds., pp. 138-141.
[2] Girls were also offered to strangers as a mark of hospitality; cf. Bossu, Nouv. Voy., vol. II, p. 17.
[3] Bossu, Nouv. Voy., vol. II, pp. 19-21.
[4] Romans, Nat. Hist. E. and W. Fla., pp. 87-88.

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585 prospective groom at least would now be a person of influence, able to make his wishes felt.

Swan is, as usual, the devil's advocate for the Creeks. He says that "marriage is considered only as a temporary convenience, not binding on the parties more than one year. . . .

"The married women are termed bound wenches—the single girls, free wenches. The least freedom with a bound wench is considered criminal, and invariably punished by the cropping law.

595 "A plurality of wives is allowed of—a mother and her two daughters are often kept by one man, at the same time; but this is most frequently by white traders, who are better able to support them. A large portion of the old and middle-aged men, by frequently changing, have had many different wives, and their children, scattered around the country, are unknown to them.

181 611 836 "Few women have more than two children by the same father; hence they have found the necessity of conferring the honors of chiefs and micos on the issue of the female line, for it would be impossible to trace the right by the male issue."[14]

Although there was no doubt an element of truth in this picture it is evident that Swan has magnified it very much, owing to his failure to understand the clan system and the collective terms in accordance with which people may be fathers, mother, sons, and daughters to each other in name but not in fact. The reason he gives for matrilineal descent is also offered by Bossu.[15] It is an old ex post facto explanation furnished sometimes by the Indians themselves and sometimes by their white chroniclers. It has no relation whatever to the sexual looseness of the people.

583 It will be observed that a tendency crops out here, which I also observed during my work upon the north Pacific coast, to the development of an official marriage and an unofficial yet tolerated union, and in both cases they may be traced to the same cause. The official marriage in the case of young people is made for, not by, them. It represents the kind of union which agrees with tribal convention and ought to be best for the prosperity of the clans concerned, for the tribe, and for the couple so married The parties thus mated are of the proper clans, the proper standing in the tribe, the proper age, and their virtues are such as to constitute a fair exchange. From all a priori considerations they are the mates for each other. Nevertheless, the serious blows which our conventions receive are signs that they are only conventions after all, and the same thing was true in primitive society. Thus it often happened that a couple which ought to agree did not, and in such cases it was frequently found necessary to undo what had been done. There can be no doubt that the frequency of divorce among many primitive peoples is

[14] Swan in Schoolcraft, Ind. Tribes, vol. v, p. 278 [15] Bossu, Nouv. Voy., vol. II, p. 21.